**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE J.B.KOSHY**
**&**
**THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

**FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928**

**WP(C).No. 1519 of 2007(E)**
**----------**

**PETITIONER:**
**----------**

**REVE.A.NINAN OOMMEN, AGED 77 YEARS,**
**AYROOKUZHIYIL, T.C.4/298,**
**A.I.OOMMEN ROAD, KURAVANKONAM,**
**KOWDIAR P.O., THIRUVANANTHAPURAM.**

**BY ADV. SRI.THOMAS ABRAHAM**
**SRI.K.B.ARUNKUMAR**
**SRI.R.DIPU**
**SMT.MERCIAMMA MATHEW**
**SMT.JANCY MATHEW CHALUVELIL**

**RESPONDENTS:**
**----------**

**1. CITY COMMISSIONER OF POLICE,**
**CITY, THIRUVANANTHAPURAM.**

**2. CIRCLE INSPECTOR OF POLICE,**
**PEROORKADA, THIRUVANANTHAPURAM.**

**3. INSPECTOR OF POLICE, PEROORKADA,**
**THIRUVANANTHAPURAM.**

**4. T. JOHN VICTOR, T.C.4/215,**
**KURAVANKONAM, KOWDIAR P.O.,**
**THIRUVANANTHAPURAM.**

**5. P. SUKUMARAN NAIR., T.C.4/212,**
**KURAVANKONAM, KOWDIAR P.O.,**
**THIRUVANANTHAPURAM.**

**BY ADV. SRI.R.T.PRADEEP**
**SRI.V.VIJULAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C).1519/2007**

## APPENDIX

**PETITIONER'S EXHIBITS:**

**EXT.P1: COPY OF THE PETITION DATED 8.1.2007 SUBMITTED BY RESPONDENTS 1 TO 3.**

**RESPONDENT'S EXHIBITS:**

**EXT.R4(A): COPY OF THE DISCHARGE RECORD DATED 1.9.2006.**

**EXT.R4(B): COPY OF THE PHOTOGRAPH OF DEMOLITION AND CONSTRUCTION OF COMPOUND WALL.**

**EXT.R4(C): COPY OF THE PHOTOGRAPH OF DEMOLITION AND CONSTRUCTION OF COMPOUND WALL.**

**EXT.R4(D): COPY OF THE PHOTOGRAPH.**

**EXT.R4(E): COPY OF THE PHOTOGRAPHS.**

**EXT.R4(F): COPY OF THE COMPLAINT DATED 1.9.2006 BEFORE THE CORPORATION OF THIRUVANANTHAPURAM.**

**EXT.R4(G): COPY OF THE COMPLAINT DATED 6.12.2006 BEFORE THE SUB DIVISIONAL MAGISTRATE.**

**EXT.R4(H): COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 18.12.2006.**

**EXT.R4(I): COPY OF THE ORDER DATED 2.1.2007 BY THE SUB DIVISIONAL MAGISTRATE.**

**EXT.R4(J): COPY OF THE ORDER DATED 3.1.2007 OF SUB DIVISIONAL MAGISTRATE.**

**EXT.R4(K): COPY OF THE COMPLAINT DATED 2.12.2006.**

**EXT.R4(L): COPY OF THE COMPLAINT DATED 30.12.2006.**

**EXT.R4(M): COPY OF THE COMPLAINT DATED 5.1.2007.**

**/TRUE COPY/**

**J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.**

**----------**

**W.P.(C).NO.1519 OF 2007 (E)**

**----------**

**Dated this the 2nd day of February, 2007**

**J U D G M E N T**

**KOSHY,J.**

This is a petition for police protection. According to the petitioner, respondents 4 and 5 and their supporters are trying to create a new pathway through his property and make obstructions to construct a compound wall. The allegations were denied by the 4th respondent and submitted that already existing pathway is being obstructed by constructing the boundary wall. According to the petitioner, Exts.P2 and P3 Sale deeds will show that there is no such pathway. There was no existing pathway and if pathway is constructed to the petitioner's property it has to be acquired through Land Acquisition proceedings. According to respondents there was already a pathway. It is submitted that the matter is pending before the Sub Divisional Magistrate and two orders have already been passed and if the order passed by the Sub

Divisional Magistrate is not correct, petitioner has to challenge the same or petitioner has to obtain orders from the civil court. Petitioner has already approached the civil court and obtained Ext.P5 ex parte injunction order passed without hearing the respondents. If any police protection is granted by this Court to enforce ex parte order, civil court will find it difficult to vacate the same even if on merits, court is not convinced. So we are not expressing any opinion on the merits of the case. The matter can be decided finally by the civil court on the basis of evidence. However, without making any observations regarding the merits of the disputes in the civil court or before R.D.O., we direct the police to see that law and order is maintained and lives of both parties are not endangered. With the above observations this writ petition is disposed of.

**J.B.KOSHY, JUDGE**

**T.R.RAMACHANDRAN NAIR, JUDGE**

prp

**J.B.KOSHY & K.P.BALACHANDRAN, JJ.**

**----------**

**O.P.NO. OF 2006 ()**

**----------**

**J U D G M E N T**

**----------**

**1th January, 2007**